



~~March 18, 2003 CPC~~

~~May 20, 2003 CPC~~

June 18, 2003 BS

STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

03SN0201

Lanco Corporation

Dale Magisterial District
Beulah Elementary, Salem Middle and Bird High School Districts
Northeast quadrant of Salem Church and Kingsland Roads

REQUEST: Rezoning from Agricultural (A) to Residential (R-12).

PROPOSED LAND USE:

A single family residential subdivision with a minimum lot size of 12,000 square feet is planned. Proffered Condition 3 limits the development on the property to ninety (90) lots yielding a density of approximately 1.94 dwelling units per acre.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND APPROVAL AND ACCEPTANCE OF THE PROFFERED CONDITIONS ON PAGES 2 THROUGH 11 AND THAT PROFFERED CONDITIONS 18 AND 19 NOT BE ACCEPTED.

(NOTE: PROFFERED CONDITIONS 10 AND 11 WERE MODIFIED AND PROFFERED CONDITIONS 18 AND 19 WERE SUBMITTED SUBSEQUENT TO THE COMMISSION'S CONSIDERATION OF THIS REQUEST AND AFTER THE CASE APPEARED IN THE NEWSPAPER. SHOULD THE BOARD WISH TO CONSIDER THESE REVISED AND ADDITIONAL PROFFERS, THEY MUST UNANIMOUSLY AGREE TO SUSPEND THEIR PROCEDURES.)

STAFF RECOMMENDATION

Recommend approval, provided that Proffered Conditions 18 and 19 relative to group homes are not accepted. This recommendation is made for the following reasons:

Providing a FIRST CHOICE Community Through Excellence in Public Service.

- A. The proposed zoning and land use conform to the Central Area Plan which suggests the property is appropriate for residential use of 1 to 2.5 units per acre.
- B. The proposed zoning and land use are representative of existing and anticipated development.
- C. The proffered conditions address the impacts of this development on necessary capital facilities, as outlined in the Zoning Ordinance and Comprehensive Plan. Specifically, the need for roads, schools, parks, libraries and fire stations is identified in the County's adopted Public Facilities Plan, the Thoroughfare Plan and Capital Improvement Program and the impact of this development is discussed herein. The proffered conditions adequately mitigate the impact on capital facilities, thereby insuring adequate service levels are maintained as necessary to protect the health, safety and welfare of County citizens.
- D. The County Attorney's Office has advised that State Law prohibits local land use regulation of group homes other than as outlined in the State Code.

(NOTES: THE ONLY CONDITION THAT MAY BE IMPOSED IS A BUFFER CONDITION. THE PROPERTY OWNER MAY PROFFER OTHER CONDITIONS. THE CONDITIONS NOTED WITH "STAFF/CPC" WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A "STAFF" ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A "CPC" ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

PROFFERED CONDITIONS

- (STAFF/CPC) 1. Public water and wastewater shall be used. (U)
- (STAFF/CPC) 2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit:
 - A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2003; or
 - B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2003.
 - C. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)

- (STAFF/CPC) 3. The maximum density of this development shall not exceed ninety (90) lots. (P)
- (STAFF/CPC) 4. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
- (STAFF/CPC) 5. Direct access from the property to Kingsland Road and to Salem Church Road shall be limited to one (1) public road onto each roadway. The exact location of these accesses shall be approved by the Transportation Department. (T)
- (STAFF/CPC) 6. Prior to tentative subdivision approval, revised centerlines for Kingsland Road based on VDOT Urban Minor Arterial Standards (50 MPH) and for Salem Church Road based on VDOT Urban Collector Standards (40 MPH), with any modifications approved by the Transportation Department, shall be submitted to and approved by the Transportation Department. In conjunction with recordation of the initial subdivision plat, forty-five (45) feet of right-of-way along the north side of Kingsland Road and thirty-five (35) feet of right-of-way along the east side of Salem Church Road, measured from the approved revised centerlines of that part of the roadways immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
- (STAFF/CPC) 7. To provide an adequate roadway system, the developer shall be responsible for the following improvements:
- a. Construction of additional pavement along Kingsland Road and along Salem Church Road at each approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.
 - b. Widening/improving the north side of Kingsland Road and the east side of Salem Church Road to an eleven (11) foot wide travel lane, measured from the existing centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with any modifications approved by the Transportation Department, for the entire property frontage.
 - c. Clearing/grading in the southwestern corner of the property to provide adequate sight distance for drivers traveling

westbound on Kingsland Road approaching the Kingsland Road/Salem Church Road intersection, as determined by the Transportation Department at time of construction plan review.

- d. Dedication to and for the benefit of Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. (T)

(STAFF/CPC) 8. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 7, shall be submitted to and approved by the Transportation Department. (T)

(STAFF/CPC) 9. Manufactured homes shall not be permitted. (P)

(STAFF/CPC) 10. Family daycare homes (providing care to more than five (5) children) and group care facilities shall not be permitted. (P)

(STAFF/CPC) 11. The following shall be recorded as restrictive covenants in conjunction with the recordation of any subdivision plat:

- a. No manufactured homes, as defined by the Code of Virginia, shall be allowed to become a residence, temporary or permanent.
- b. No family daycare homes (providing care to more than five (5) children) or group care facilities, as defined by the Chesterfield County Code, shall be permitted in any dwelling unit. (P)

(STAFF/CPC) 12. The minimum gross floor area for one story dwelling units shall be 1700 square feet and dwelling units with more than one story shall have a minimum gross floor area of 1800 square feet. A maximum of thirty (30) homes shall be permitted to have a gross floor area of less than 2,000 square feet. (BI & P)

(STAFF/CPC) 13. All exposed portions of the foundation of each new dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (BI & P)

(STAFF/CPC) 14. A fifteen (15) foot tree preservation strip, exclusive of required yards, shall be maintained along the eastern property line adjacent to GPIN 780-672-2584 and 780-673-2415, and 2566. Utility easements shall

be permitted to cross this strip in a perpendicular fashion. Any healthy trees that are six (6) inches in caliper or greater shall be retained within this tree preservation strip except where removal is necessary to accommodate the improvements permitted by the preceding sentence. This condition shall not preclude the removal of vegetation from the tree preservation strip that is unhealthy, dying or diseased. (P)

(STAFF/CPC)

15. In conjunction with the recordation of the initial subdivision plat, a public access easement, of approximately thirty (30) feet in width along Reedy Branch Creek, shall be dedicated free and unrestricted, to and for the benefit of Chesterfield County. The exact location and width of this easement shall be approved by the Parks and Recreation Department. (P&R)

(STAFF/CPC)

16. Development on the Property shall be phased as follows:
- a) No more than a cumulative total of forty (40) lots shall be recorded prior to July 1, 2004.
 - b) No more than a cumulative total of sixty-five (65) lots shall be recorded prior to July 1, 2005.
 - c) No more than a cumulative total of ninety (90) lots shall be recorded prior to July 1, 2006. (P)

(STAFF/CPC)

17. The following shall be recorded as deed restrictions in conjunction with the recordation of any subdivision plat:

A. Proposed Declaration of Protective Covenants:

- 1. No Lot shall be used except for residential purposes.
- 2. No improvements including, without limitation, a dwelling, accessory structure, or addition such as a carport, driveway, porch, sidewalk, roof, lamp post, fence, garage, or other outbuildings, landscaping, antenna, or similar device, or change in the exterior color or siding material shall be made, erected, altered, or replaced unless two sets of detailed plans and specifications, including a site plan locating all such improvements and describing exterior finishes (material and color, including roof) have first been submitted to and approved by Declarant in writing.
- 3. Declarant reserves unto itself the right and privilege to install gas lines, water lines, sewer lines, storm

sewers, electric lines, telephone and telegraph poles, lines and wires, and other utilities and appurtenances in the street and roads of the Subdivision and along the property lines of the Lots, and to grant to other persons, companies, or corporations any or all of such rights and privileges, but the reservation of such rights shall not relieve any grantee from the obligation to pay the usual and customary charges made with respect to his Lot for the installation and/or connection of utilities.

4. In considering requests for approval of fences and hedges, the following general guidelines will be applied:
 - A. No fence shall be permitted in the front yard of any Lot (between the building setback line and street line).
 - B. No fence or hedge shall generally be permitted higher than 42 inches of any Lot.
 - C. No chain link fences or fences of other materials similar in nature or appearance will be permitted on any Lot.
5. Declarant may in its absolute discretion waive or modify these guidelines and consider such other criteria as it shall deem appropriate.
6. No sign of any kind shall be displayed to public view on any Lot, unless first approved in writing by Declarant, except on sign of not more than four (4) square feet advertising the property for sale or rent, or signs used by a the initial construction and sales period.
7. No use shall be made of any Lot, or any part thereof which constitutes a nuisance or which would adversely affect the value or marketability of other Lots, No stables, swine, sheep, cows, or the like shall be permitted on any Lot. All trash, garbage and/or rubbish shall be kept in sanitary containers located so as not to be visible from a public street except as necessary for limited times in connection with pickup and removal by disposal services and except during periods of construction.

8. No driveway, entranceway, or sidewalk shall be constructed on any Lot unless approved as provided in paragraph 2.
9. No swimming pool shall be located nearer to any street line than the rear building line of the dwelling.
10. No structure of a temporary character or any trailer, tent, barn, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.
11. No trees over six (6) inches in diameter shall be removed from any Lot without the prior written approval of Declarant.
12. No portable air conditions units will be place in any window of a dwelling or other building if visible from a public street.
13. No exterior television antenna (including "dish" type) or other antennas shall be permitted to extend over five (5) feet above the roofline of any building.
14. No motor vehicle will be parked on or adjacent to any Lot which does not have a current state license, state inspection sticker, and county license, and no commercial vehicle, such as a school bus, delivery truck, or other large vehicle or equipment will be parked on a street in the subdivision or on any Lot. No recreational vehicle (mobile home, camping trailer, and other similar vehicles) shall be parked on a street in the Subdivision or on a Lot except in a driveway shown on plans that have been approved as provided in Paragraph 2.
15. Any one or more of the covenants or restrictions imposed by paragraphs I through 14 above may be waived or modified, in whole or in part, as to the entire Subdivision or and part thereof, by written instrument signed by Declarant and recorded where these restrictions are recorded.
16. In addition to the foregoing conditions and restrictions, the Lots shall be subject to easements for

drainage and utilities, including power and telephone lines, as shown on the plat, and any other easements of record at the time of conveyance of any Lot.

17. Invalidation of any one of the provisions of these restrictions by judgement, court order, or otherwise shall in no way affect any of the other provisions which shall remain in full force and effect.
18. Declarant reserves the right to assign and transfer to any person, persons, or entity some or all of its rights provided herein and in such event such transferee shall have and may exercise all such rights to the same extent as if he, they, or it were the Declarant.
19. Declarant shall have the full right and privilege to enforce all restrictions and conditions contained herein by appropriate proceeding at law for damages and/or in equity for appropriate injunctive relief and restraining orders to prevent violations, or to require violations to be corrected, together with damages sustained including, without limitation, attorneys' fees and costs. In addition, any Owner shall have, after seventy-five percent (75%) or more of the Lots have been conveyed to purchasers other than builders, the right to enforce compliance with these restrictions as provided in this paragraph.
20. These restrictions shall run with the land and be binding upon any and all succeeding owners, their personal representatives, estates, heirs, devisees, assigns, or successors in interest or any other parties having or taking an interest in or to the Property, or any part thereof, and shall automatically be extended for successive periods of ten (10) years unless otherwise provided in a written instrument executed by the owners of a majority of the Lots in the Subdivision unless a release, waiver, or breach of any one or more of the restrictions contained herein or any part thereof is required or agreed to by a court or governmental authority having jurisdiction over the Property.
21. Declarant, as owner of all of the Property subjected to the Declaration, shall, at such time as it deems

appropriate, cause to be incorporated under the laws of the Commonwealth of Virginia a non profit corporation to be named "Bendahl Valley Homeowner's Association" or a similar name (the "Association").

- A. All Owners shall be members ("Members") of the Association and shall be entitled to one (1) vote, per each Lot owned by them (provided, however, that if a Lot is owned by more than one owner, the owners of such Lot shall be entitled to only one vote between them), on all matters which are required to be decided by a vote of the Members of the Association.
- B. The Members shall annually elect a five (5) member board of directors (the "Board of Directors") which shall be responsible for operating the Association, provided, however, that until such time as eighty-five percent (85%) of the Lots are owned by persons other than builders of the Declarant, the Board of Directors shall consist of five (5) directors all of whom shall be selected by the Declarant.
- C. Each year the Board of Directors shall prepare an annual budget (the "Budget") containing an itemization of the expenses, which it anticipates, the Association will incur during the upcoming year to fulfill its responsibilities hereunder. The Budget shall be sent to each owner together with a notice of assessment (the "Annual Assessment") for the owner's pro rata share of the budget, which shall be computed by dividing the total Budget by the number of Lots. Upon receipt of the Annual Assessment, each Owner shall be required to make payment of the same in the manner designated by the Board of Directors.
- D. In addition to any Annual Assessments, the Association may levy in any assessment year a special assessment (the "Special Assessment") applicable to that year only for the purpose of defraying in whole or in part the cost of any reconstruction, unexpected repair, or replacement of a capital improvement, including the necessary fixtures and personal

property related thereto, provided that any such Special Assessment shall have the consent of the Owners of two-thirds (2/3) of the lots.

- E. Any Annual Assessment of Special Assessment (the "Assessments") which is not paid by an Owner within such time as shall be determined by the Board of Directors shall bear interest at a rate per annum determined by the Board of Directors from such date until paid and shall constitute a lien upon the Lot owned by such Member. Such lien shall have priority over all other liens including, without limitation, mortgages, deeds of trust, or any other lien hereafter placed upon any Lot, except a first mortgage of deed of trust securing a loan by a bona fide institutional lender to which such lien shall be subordinate. No Owner may waive or escape liability for the assessments hereunder for any reason. No sale or other transfer shall relieve any owner from liability for any Assessments due nor any Lot from the lien of any Assessments. The amount of any such lien may be enforced by suit or otherwise at the election of the Association and the Owner shall be required to reimburse the Association for all attorneys' fees and expenses incurred in so doing, the amount of which shall also constitute a lien on the Lot as herein provided. Notwithstanding the above, a party who acquires title to a Lot by virtue of the foreclosure of lien secured by a first mortgage of deed of trust to which this lien is subordinate or by a deed or assignment in lieu of foreclosure any liability of lien chargeable to such Lot on account of any period of time prior to such acquisition of title. Said acquiring party shall, however, be bound by the provisions of this Declaration including, without limitation, Assessments effective after said acquisition of title.

22. The Declarant hereby reserves the right, at Declarant's sole discretion, to add the Additional Land to the

property subject to the Declaration of Protective Covenants. (P)

18. Group homes shall not be permitted. (P)
19. The following shall be recorded as restrictive covenants in conjunction with the recordation of any subdivision plat:
 - a. No group homes, as defined by the Chesterfield County Code, shall be permitted in any dwelling unit. (P)

GENERAL INFORMATION

Location:

Northeast quadrant of Kingsland and Salem Church Roads. Tax ID 779-673-Part of 4929 (Sheet 18).

Existing Zoning:

A

Size:

46.4 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - R-7; Single family residential or vacant
South - A and R-9; Single family residential or vacant
East - A; Single family residential
West - A; Single family residential or vacant

UTILITIES

Public Water System:

There is an existing sixteen (16) inch water line extending along the west side of Salem Church Road, adjacent to this site. In addition, a small section of a twelve (12) inch water line fronts on Kingsland Road that is fed by an eight (8) inch water line in Sir Lionel Place.

This water line is adjacent to this site. Use of the public water system is intended and has been proffered. (Proffered Condition 1)

Public Wastewater System:

There is an existing twenty-one (21) inch wastewater trunk line extending along a portion of Reedy Creek and terminates adjacent to Indian Springs Road, approximately 1,200 feet east of the request site. Use of the public wastewater system is intended and has been proffered (Proffered Condition 1). To facilitate future wastewater service, it is anticipated that concurrent with this development, the Reedy Branch Wastewater Trunk line will be extended to the western most boundary of this site.

ENVIRONMENTAL

Drainage and Erosion:

The property drains north to a tributary of Kingsland Creek, and a wide RPA is located adjacent to the creek. The property is wooded and should not be timbered without first obtaining a land disturbance permit from the Environmental Engineering Department (Proffered Condition 4). This will insure that adequate erosion control measures are in place prior to any land disturbance permit.

PUBLIC FACILITIES

The need for roads, schools, parks, libraries, fire stations and transportation facilities is identified in the Public Facilities Plan, the Thoroughfare Plan and the Capital Improvement Program and further detailed by specific departments in the applicable section of this "Request Analysis". This development will have an impact on these facilities.

Fire Service:

The Airport Fire/Rescue Station, Company Number 15, currently provides fire protection and emergency medical service. The Public Facilities Plan indicates that emergency services calls are expected to increase forty-five (45) percent by 2015. Eight (8) new fire/rescue stations are recommended for construction by 2015 in the Plan. Based on 116 dwelling units, this request will generate approximately forty-two (42) calls for fire and EMS services each year. The applicant has addressed the impact on fire service. (Proffered Condition 2)

When the property is developed, the number of hydrants, quantity of water needed for fire protection and access requirements will be evaluated during the plans review process.

Schools:

Approximately sixty-one (61) new students will be generated by this development. This site lies in the Beulah Elementary School attendance zone: capacity – 610 enrollment – 616;

Salem Middle School zone: capacity – 1,030, enrollment – 1,195; and Bird High School zone: capacity – 1,650, enrollment – 1,811.

This development will have an impact on the schools involved. There are currently two (2) trailers at Beulah Elementary, thirteen (13) trailers at Salem Middle and five (5) at Bird High School. The applicant has addressed the impact on schools. (Proffered Condition 2)

Libraries:

Consistent with the Board of Supervisors' policy, the impact of development on library services is assessed County-wide. Based on projected population growth, the Public Facilities Plan identifies a need for additional library space throughout the County. Even if the facility improvements that have been made since the Public Facilities Plan was published are taken into account, there is still an unmet need for additional library space throughout the County. This development would most likely impact the Meadowdale or Central Libraries. The Plan indicates a need to add library space in these service areas. An expansion of the Meadowdale Library is included in the Library's current Capital Improvements Plan (CIP). The applicant has addressed the impact of this development on libraries. (Proffered Condition 2)

Parks and Recreation:

The Public Facilities Plan identifies the need for four (4) new regional parks. In addition, there is currently a shortage of community park acreage in the County. The Plan identifies a need for 625 acres of regional park space and 116 acres of community park space by 2015. The Plan also identifies the need for neighborhood parks and special purpose parks and makes suggestions for their locations. The applicant has offered measures to assist in addressing the impact of this proposed development on Parks and Recreation facilities. (Proffered Condition 2)

Public access easements along riparian areas are requested to protect the right to provide a pedestrian connection from residential areas to Ironbridge Park facilities. Proffered Condition 15 provides that in conjunction with the recordation of the initial subdivision plat, a public access easement along Reedy Branch Creek will be dedicated to the County. The construction of a trail connection will only be provided by Parks and Recreation if driven by community interest in such a facility. (Proffered Condition 15)

Transportation:

This request consists of approximately forty-six (46) acres, currently zoned Agricultural (A). The applicant is requesting rezoning to Residential (R-12). The applicant has proffered that development will not exceed a density of two and a half (2.5) units per acre (Proffered Condition 3). Based on single family trip rates, development could generate approximately 1,110 average daily trips. These vehicles will be distributed along Kingsland Road and

Salem Church Road, which had 2003 traffic counts of 2,948 and 3,787 vehicles per day, respectively.

The only road improvement project in this area of the County that is included in the Six-Year Secondary Road Improvement Plan, is a project to reconstruct Salem Church Road as a two (2) lane road from just north of Kingsland Road to Beulah Road. Construction on this project is anticipated to begin in Spring 2003.

The Thoroughfare Plan identifies Kingsland Road as a major arterial with a recommended right of way width of ninety (90) feet, and identifies Salem Church Road as a collector with a recommended right of way width of seventy (70) feet. The applicant has proffered to dedicate forty-five (45) feet of right of way measured from a revised centerline of Kingsland Road and dedicate thirty-five (35) feet of right of way measured from a revised centerline of Salem Church Road, in accordance with that Plan. (Proffered Condition 6)

Access to major arterials, such as Kingsland Road, and to collectors, such as Salem Church Road, should be controlled. The applicant has proffered that direct access from the property to Kingsland Road and Salem Church Road will be limited to one (1) public road onto each roadway. (Proffered Condition 5)

The traffic impact of this development must be addressed. The applicant has proffered to: 1) construct left and right turn lanes along Kingsland Road and Salem Church Road at each public road intersection, if warranted based on Transportation Department standards; 2) widen the north side of Kingsland Road and the east side of Salem Church Road to a total travel way width of eleven (11) feet measured from the existing centerline with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder for the entire property frontage; and 3) clearing/grading in the southwestern corner of the property to provide adequate sight distance for drivers traveling westbound on Kingsland Road approaching the Kingsland Road/Salem Church Road intersection (Proffered Condition 3). Utility poles are located along the north side of Kingsland Road. In order to provide improvements to Kingsland Road, these utility poles must be relocated behind the new ditch.

Area roads need to be improved to address safety and accommodate the increase in traffic generated by this development. Kingsland Road and Salem Church Road will be directly impacted by development of this property. Sections of Kingsland Road have nineteen (19) to twenty (20) foot wide pavement with no shoulders and poor horizontal alignment. Sections of Salem Church Road have nineteen (19) to twenty (20) foot wide pavement with no shoulders and also has poor vertical and horizontal alignments. The capacity of both roads is acceptable (Kingsland Road - Level of Service C and Salem Church Road - Level of Service D) for the volume of traffic they currently carry. The standard typical section for Kingsland Road and Salem Church Road should be twenty-four (24) foot wide pavement, with minimum of eight (8) foot wide shoulders. The applicant has proffered to contribute cash, in an amount consistent with the Board of Supervisors' policy, towards mitigating the traffic impact of this development. (Proffered Condition 2)

The property is located in the northeast corner of the Kingsland Road/Salem Church Road intersection. The design of the internal street network developed within the property should not create an attractive “cut-through” route for drivers traveling along Kingsland Road and Salem Church Road. At time of tentative subdivision review, specific recommendations will be provided regarding the proposed internal street network.

Financial Impact on Capital Facilities:

		PER UNIT
Potential Number of New Dwelling Units	116*	1.00
Population Increase	315.52	2.72
Number of New Students		
Elementary	27.84	0.24
Middle	15.08	0.13
High	19.72	0.17
TOTAL	62.64	0.54
Net Cost for Schools	562,252	4,847
Net Cost for Parks	80,388	693
Net Cost for Libraries	43,500	375
Net Cost for Fire Stations	46,516	401
Average Net Cost for Roads	476,644	4,109
TOTAL NET COST	1,209,300	10,425

*Based on a proffered maximum of 2.5 dwelling units per acre.

As noted, this proposed development will have an impact on capital facilities. Staff has calculated the fiscal impact of every new dwelling unit on schools, roads, parks, libraries and fire stations at \$10,425 per unit. The applicant has been advised that a maximum proffer of \$9,000 per unit would defray the cost of the capital facilities necessitated by this proposed development. Consistent with the Board of Supervisors' policy, and proffers accepted from other applicants, the applicant has offered cash to assist in defraying the cost of this proposed zoning on such capital facilities. (Proffered Condition 2)

Note that circumstances relevant to this case, as presented by the applicant, have been reviewed and it has been determined that it is appropriate to accept the maximum cash proffer in this case.

LAND USE

Comprehensive Plan:

Lies within the boundaries of the Central Area Plan which suggests the property is appropriate for residential use of 1 to 2.5 units per acre.

Area Development Trends:

Area properties are zoned residentially and agriculturally and are occupied by single family residences or are vacant. It is anticipated that single family residential zoning and land use will continue in the area as suggested by the Plan.

Density:

Proffered Condition 3 limits development to a maximum of ninety (90) lots yielding a density of approximately 1.94 units per acre, consistent with the recommendations of the Central Area Plan.

Use Limitations:

To address concerns of the Dale District Commissioner, proffered conditions prohibit manufactured homes, family daycare homes, group homes and group care facilities. (Proffered Conditions 9, 10 and 18)

The County Attorney's Office has advised that Proffered Condition 18 should not be accepted because State Law preempts local governments' authority to regulate group homes beyond the limitations prescribed in State statute. The Commission recommends language regarding group homes not be accepted. Subsequent to the Commission's meeting, the applicants revised Proffered Condition 10 to omit language relative to group homes. However, in order to keep the issue before the Board of Supervisors, the applicant submitted Proffered Condition 18 which prohibits group homes.

It should be noted that acceptance of Proffered Conditions 10 relative to prohibition of family daycare homes and group care facilities would not proscribe a property owners' ability to request through the zoning process to amend the proffered conditions and seek approval of a conditional use for these uses as specified by Ordinance. Therefore, staff recommends that this proffer not be accepted.

Proffered Condition 9 precludes manufactured homes. The Ordinance also precludes manufactured homes. The proffer has been offered at the request of the Dale District Commissioner in anticipation of a potential State Law change which may require localities to allow manufactured homes in residential districts. If the State Law is amended, depending upon the adopted language, this proffer may or may not be enforceable in the future.

Restrictive Covenants:

To address concerns of the Dale District Commissioner, a proffered condition requires restrictive covenants to be recorded in conjunction with the recordation of any subdivision plat that prohibit manufactured homes, family daycare homes, group homes and group care facilities. (Proffered Conditions 11 and 19)

The County Attorney's Office has advised that Proffered Condition 19 should not be accepted because State Law preempts local governments' authority to regulate group homes beyond the limitations prescribed in State statute. Requiring the recordation of the "group home" covenant through the zoning process would warrant legal recognition of the covenant as a zoning condition and as such, as a local restriction on group homes.

The Commission recommends language regarding group homes not be accepted. Subsequent to the Commission's meeting, the applicant revised Proffered Condition 11 to omit language relative to group homes. However, in order to keep the issue before the Board of Supervisors, the applicant submitted Proffered Condition 19 which provides restrictive covenants will be recorded to prohibit group homes.

Further, to address concerns of area residents regarding quality of the overall development, Proffered Conditions 11, 17 and 19 require restrictive covenants to be recorded with the recordation of any subdivision plat. The County will only insure the recordation of the covenants and will not be responsible for their enforcement. Once the covenants are recorded, they can be changed.

House Sizes and Treatment:

To address concerns of adjacent property owners and the Dale District Commissioner, proffered conditions address minimum house size and foundation treatment. (Proffered Conditions 12 and 13)

Tree Preservation Strip:

In an attempt to address concerns of property owners adjacent along the eastern boundary of the request property relative to a vegetated separation between their lot and the dwellings within the proposed development, Proffered Condition 14 requires a tree preservation strip along the eastern property line, adjacent to Tax IDs 780-672-2584 and 780-673-2415 and 2566 (Proffered Condition 14). This tree preservation strip will be included within the limits of the proposed lots. It has been staff's experience that individual homeowners clear these areas resulting in a zoning violation on that individual lot. Given the retention of trees within this strip will be difficult, if not impossible, for the County to enforce, staff recommends that Proffered Condition 14 not be accepted.

Phasing:

To address concerns of area residents and the Dale District Commissioner, Proffered Condition 16 limits the number of lots that can be recorded over the next three (3) years. (Proffered Condition 16)

CONCLUSIONS

The proposed zoning and land use conform to the Central Area Plan which suggests the property is appropriate for residential use of 1 to 2.5 units per acre and is representative of existing and anticipated area development. The maximum density permitted in this case is 2.5 units per acre (Proffered Condition 3); the theoretical density is 3.05 units per acre; and the average actual lots recorded in Residential (R-12) between 1999 and 2001 was 1.89 units per acre.

The proffered conditions address the impacts of this development on necessary capital facilities, as outlined in the Zoning Ordinance and Comprehensive Plan. Specifically, the need for transportation, schools, parks, libraries and fire stations is identified in the County's adopted Public Facilities Plan, the Thoroughfare Plan and Capital Improvement Program and the impact of this development is discussed herein. The proffered conditions adequately mitigate the impact on capital facilities, thereby insuring that adequate service levels are maintained as necessary to protect the health, safety and welfare of County citizens.

The County Attorney's Office has advised that State Law prohibits local land use regulation of group homes other than as outlined in the State Code.

Given these considerations, approval of this request is recommended provided that Proffered Conditions 18 and 19 relative to group homes not be accepted.

CASE HISTORY

Planning Commission Meeting (3/18/03):

On their own motion, the Commission deferred this case to May 20, 2003.

Staff (3/19/03):

The applicant was advised in writing that any significant new or revised information should be submitted no later than March 24, 2003, for consideration at the Commission's May 20, 2003, public hearing.

Staff, Applicant, Area Residents and Dale District Commissioner (4/1/03):

A meeting was held to discuss the applicant's request. Citizens expressed concerns relating to increased traffic, over-crowded schools, phasing of development, number and quality of homes, minimum house sizes and potential impact on wetlands.

Staff, Applicant, Area Residents and Dale District Commissioner (4/24/03):

A meeting was held to discuss additional proffered conditions being considered by the applicant to address citizens' concerns relative to number and quality of homes, minimum house sizes and phasing development.

Applicant (4/29/03):

In an attempt to address concerns of area citizens and the Dale District Commissioner, the applicant submitted revised and additional proffered conditions relative to density, house sizes, phasing and restrictive covenants.

Planning Commission Meeting (5/20/03):

The applicant accepted the recommendation. There was no opposition present.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission recommended approval and acceptance of Proffered Conditions on pages 2 through 11 and that parts of proffered conditions relative to group homes prohibition not be accepted.

AYES: Unanimous.

Applicant (6/9/03):

The applicant revised Proffered Conditions 10 and 11 and submitted Proffered Conditions 18 and 19 relative to group homes.

The Board of Supervisors, on Wednesday, June 18, 2003, beginning at 7:00 p.m., will take under consideration this request.

